

The Ohio Innocence Project at the University of Cincinnati College of Law (OIP), along with co-counsel Jones Day of Cleveland, announce that Judge Judy Hunter has ruled that Douglas Prade is actually innocent. The Court has ordered Mr. Prade's immediate release from prison. Prade is a former Akron Police Captain who was convicted in September 1998 of murdering his ex-wife, Margo Prade, a prominent physician in the Akron area. At the time, the prosecution and conviction of Prade received significant national media attention.

Upon his conviction in 1998, Prade immediately stood, addressed the court, and stated: "I didn't do this.....I am an innocent convicted person. God, myself, Margo and the person who killed Margo all know I'm innocent." Prade also stated that he would accept the State's apology when he was eventually proven innocent.

At trial, an expert for the state testified at Prade's trial that the perpetrator bit Margo Prade during the struggle, and that the bite mark visible on Margo Prade's body matched the dental impressions made by Douglas Prade's teeth. The jurors later told Dateline NBC that they convicted Prade because of the State's "bite mark evidence."

But this type of "expert" bite mark testimony has been debunked by the scientific community since the time of Prade's conviction, with many scientists and even the National Academy of Sciences finding that it is unscientific, unreliable, and prone to result in wrongful convictions. Numerous individuals convicted on the basis of bite mark evidence have been subsequently exonerated by DNA testing.

At trial, Prade presented testimony that he was at the gym when his wife was murdered. The state presented two who testified that they saw Douglas Prade in the vicinity of the murder (which was outside Margo Prade's medical office) near the time of the crime. As the trial court noted, the eyewitnesses in his case were particularly problematic. One witness did not identify anyone in his first two police interviews, and the other witness came forward only on the eve of trial. Both witnesses identified Prade only after his photo had been plastered across the media as the State's #1 suspect. Given these problems, Judge Hunter concluded that these eyewitnesses could have been mistaken. Mistaken eyewitness identification is the leading cause of wrongful conviction, causing more than 75% of the wrongful convictions in this country identified to date.

Prade first sought DNA testing in 2004, as soon as Ohio law recognized a

statutory right for inmates to obtain DNA testing. Despite the fact that an expert at trial testified that the perpetrator “slobbered” on the lab coat, and the SCPO’s office’s own expert stating that the best place to find the murderer’s DNA would be the bite mark area of the lab coat, the Summit County Prosecutor’s Office (SCPO) refused Prade’s request for DNA testing. Accordingly, the OIP filed suit on Prade’s behalf seeking a court order granting him the right to DNA testing. Prade sat in prison for 8 years while his suit for DNA testing has wound its way through the justice system, including two trips to the Court of Appeals and a trip to the Ohio Supreme Court in 2010.

After the Ohio Supreme Court remanded Prade’s DNA testing case to the trial court in 2010, Judge Judy Hunter of the Summit County Court of Common Pleas finally granted testing to Prade, over the objection of the SCPO. Judge Hunter, in her 2011 decision granting DNA testing, found in that if a male DNA profile was found in the bite mark area of the lab coat that Margo was wearing at the time she was attacked, and if that DNA profile did not match Douglas Prade’s profile, then the results would be “outcome determinative” and sufficient for relief under Ohio law.

In February of 2012, the Fairfield, Ohio DNA Lab DNA Diagnostics Center (DDC) reported that it had identified male DNA in the bite mark area of the lab coat, in an area that had previously tested positive for the perpetrator’s saliva, and that Douglas Prade could be conclusively excluded as the source of that male DNA. The Summit County Prosecutor’s Office then claimed that the lab coat was contaminated, and that DNA testing of different parts of the lab coat would show the DNA profiles of many different men. This, the prosecutors suggested, might raise the specter that the male DNA in the bite mark might not have come from the perpetrator, but rather, from general contamination. Subsequent DNA testing shot down these claims, however, finding no male DNA profile anywhere else on the lab coat outside of the bite mark.

Next, further testing excluded Prade from the male DNA underneath Margo Prade’s fingernails. Prade then consented to the SCPO’s request to test numerous items of evidence in its attempt to find Prade’s DNA somewhere at the crime scene. However, despite utilizing highly advanced forms of DNA testing not available at the time of trial, the SCPO could not find Prade’s DNA anywhere.

Today, the Court held that these DNA test results demonstrate Mr. Prade’s innocence. Specifically, the Court made the following findings:

- (1) Because saliva is a rich source of DNA material, while touch DNA is a weak source of DNA material, it is far more plausible that the male DNA found in the bite-mark section of the lab coat was contributed by the killer rather than by inadvertent contact;
- (2) The Y-STR DNA testing of various areas of the lab coat other than the bite-mark section was expressly designed by the State to test for contamination or for touch DNA and that testing failed to find any male DNA, thereby suggesting a low probability of contamination or touch DNA;
- (3) The ways in which the State suggested that the bite-mark section of the lab coat could have been contaminated with stray male DNA are highly speculative and implausible;
- (4) The small quantity of male DNA found on DDC 19.A.1 and 19.A.2 [the bite-mark section of the labcoat] does not mean that the Y-STR profiles obtained from these samples are invalid or unreliable;
- (5) Earlier testing and treatment of the bite-mark section of the lab coat by the FBI and SERI from 1988 explains the small quantity of male DNA remaining from the crime, and the simple passages of time causes DNA to degrade; and
- (6) The Defendant has been conclusively excluded as the contributor of the male DNA on the bite mark section of the lab coat or anywhere else.

The Court concluded that Mr. Prade is actually innocent and ordered his immediate release from prison.

DDC provided testing in this case free of charge as a public service. DDC has similarly provided free DNA testing in the case of Raymond Towler (exonerated after serving 29 years in prison for a rape he did not commit) and Robert McClendon (exonerated by DNA testing after serving 18 years in prison for a rape he did not commit), among others.

Clarence Elkins, who was similarly convicted of murder in Summit County three months before Douglas Prade was convicted, and was exonerated by DNA testing and released in 2005, stated upon hearing the news:

I am overjoyed to hear that Doug will finally be vindicated. I got to know Doug a little bit in jail. I was so happy that Judge Judy Hunter finally granted DNA testing to Prade after 8 long years of fighting the DNA tests. The results of the DNA tests proving Doug innocent don't surprise me at all. I will pray going forward that the Summit County Prosecutors will not fight this the way they did with my case for so long, and that Prade and I will share freedom together before long. I can't wait to welcome him on the outside.

The OIP has represented Mr. Prade since 2004, with staff attorney Carrie Wood currently handling the case. The OIP was joined in 2008 by David

Alden and Lisa Gates of the Cleveland office of the international law firm Jones Day, which has served as lead counsel since that time. David Alden argued Mr. Prade's case in the Ninth District Court of Appeals, The Supreme Court of Ohio, and, after remand, before Judge Hunter. David Alden and James Young from Jones Day also assisted the OIP in obtaining the 2010 DNA exoneration of Raymond Towler, who had been incarcerated since 1981.

Students for the OIP who worked on the case through the years include Eva Hager Whitehead, Erik Laursen, Kyle Healey, Eric Eckes, Megan McConnell, Curtis Scribner, Lauren Wimmers, Brent Sigg, Jay Kincaid, Chris Kaiser, Byrd Watts, David Sturkey, Peter Link, Aisha Monem, Jonathan Norman, Ryan McGraw, Julie Kathman, Jimmy Harrison, Levi Daly, Thomas Styslinger, and Scott Leaman.